

Introduced by Senators Nguyen and Vidak

February 24, 2015

An act to add Chapter 6.4 (commencing with Section 30030) to Division 3 of Title 3 of the Government Code, relating to criminal justice realignment, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 353, as introduced, Nguyen. 2015 Realignment Legislation addressing justice reinvestment.

(1) Existing law, the 2011 Realignment Legislation addressing public safety and related statutes, requires that certain specified felonies be punished by a term of imprisonment in a county jail for 16 months, or 2 or 3 years, and provides for postrelease community supervision by county officials for persons convicted of certain specified felonies upon release from prison or county jail. As part of the realignment of public safety services to local agencies, existing law establishes the Local Revenue Fund 2011 into which specified tax revenues are deposited and are continuously appropriated for the provision of public safety services, as defined.

This bill, the 2015 Realignment Legislation addressing justice reinvestment, would establish the Realignment Reinvestment Fund in the State Treasury as a continuously appropriated fund. The bill would require the Director of Finance, in consultation with the Legislative Analyst, to annually calculate the net savings to the state for the prior fiscal year and an estimate of the net current fiscal year savings resulting from the 2011 Realignment Legislation addressing public safety, as specified. The bill would require the Controller to transfer \$1,543,783,000 from the General Fund to the Realignment Reinvestment Fund for the 2015–16 fiscal year, thereby making an appropriation. The

bill would, beginning in the 2016–17 fiscal year, and each fiscal year thereafter, require the Controller to transfer an amount equal to the estimate of net current fiscal year savings resulting from the 2011 Realignment Legislation addressing public safety, adjusted by the difference between the preceding year's estimate and the calculated prior fiscal year net savings, thereby making an appropriation.

The bill would require the Controller to annually allocate moneys in the Realignment Reinvestment Fund, no later than September 1 of each year, to each county for deposit in the county's Realignment Reinvestment Services Account proportionally, based on the average daily population of realigned offenders under each county's supervision for the preceding fiscal year. The bill would require the Controller to consult with the Board of State and Community Corrections to determine the average daily population for each county.

The bill would require a Realignment Reinvestment Services Account to be established in each county treasury. The bill would require the moneys to implement a comprehensive, locally run, supplemental community-based corrections plan, as specified. The bill would require the supplemental community-based corrections plan to be developed by each county's local Community Corrections Partnership and to be voted on by an executive committee of each county's Community Corrections Partnership, as specified. The bill would deem the supplemental community-based corrections plan accepted by the county board of supervisors unless the board rejects the plan by a $\frac{4}{5}$ vote. The bill would require each county or city and county to annually report to the county board of supervisors and the Board of State and Community Corrections on the programs funded pursuant to these provisions, as specified. By imposing additional duties on local officials, this bill would impose a state-mandated local program.

The bill would require the Director of Finance, in consultation with the Legislative Analyst, to develop a yearly estimate of the cost avoidances expected to be realized by the Department of Corrections and Rehabilitation that are a result of the 2011 Realignment Legislation, and would require the director to report those estimates to the Legislature, as provided.

The bill would require that moneys allocated from a Realignment Reinvestment Services Account be expended exclusively for purposes of the bill's provisions. The bill would require that funds received pursuant to its provisions be expended or encumbered no later than June

30 the following year, and would require unspent moneys to be remitted for deposit in the Realignment Reinvestment Fund.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. This act shall be known, and may be cited, as the
2 2015 Realignment Legislation addressing justice reinvestment.

3 SEC. 2. The Legislature finds and declares all of the following:

4 (a) The Legislature is committed to reducing recidivism among
5 criminal offenders, ensuring that local governments have adequate
6 funding to achieve this goal, and facilitating the responsible
7 implementation of the criminal justice policies contained in the
8 2011 Realignment Legislation addressing public safety.

9 (b) California must continue to reinvest its criminal justice
10 resources to support community-based corrections programs,
11 evidence-based practices, and local correctional facilities in order
12 to achieve improved public safety returns on this state's substantial
13 investment in its criminal justice system.

14 (c) Realigning low-level felony offenders who do not have prior
15 convictions for serious, violent, or sex offenses to locally run,
16 community-based corrections programs, which are strengthened
17 through community-based punishment, evidence-based practices,
18 improved supervision strategies, and enhanced secured capacity,
19 has the potential to improve public safety outcomes for adult felons
20 and facilitate their reintegration back into society. However, local
21 governments have indicated that current resources provided by the
22 state to achieve these goals are inadequate. This lack of resources
23 has resulted in deficiencies in bed space, evidence-based programs,
24 and treatment options. Community-based corrections programs
25 require additional funding to meet the level of need and provide
26 an appropriate level of service for offender populations shifted as

1 a result of the 2011 Realignment Legislation addressing public
2 safety.

3 (d) By enacting the 2011 Realignment Legislation addressing
4 public safety, the Legislature affirmed its commitment to justice
5 reinvestment and stated that the purpose of justice reinvestment
6 is to manage and allocate criminal justice populations more cost
7 effectively, generating savings that can be reinvested in
8 evidence-based strategies that increase public safety while holding
9 offenders accountable.

10 (e) In order to properly implement the 2011 Realignment
11 Legislation addressing public safety, it is the intent of the
12 Legislature to fully commit to justice reinvestment by using
13 identified state savings generated by the 2011 Realignment
14 Legislation addressing public safety and any other necessary funds
15 to provide local governments with maximum flexibility and
16 adequate funding to manage these new offenders in the manner
17 that is in the best interest of public safety, most appropriate to each
18 county, and consistent with principles of justice reinvestment.

19 SEC. 3. Chapter 6.4 (commencing with Section 30030) is added
20 to Division 3 of Title 3 of the Government Code, to read:

21

22 CHAPTER 6.4. REALIGNMENT REINVESTMENT FUND

23

24 30030. For purposes of this chapter, “realigned offenders”
25 means offenders sentenced to a county jail or to mandatory
26 supervision, or to both county jail and mandatory supervision,
27 pursuant to subdivision (h) of Section 1170 of the Penal Code,
28 offenders subject to postrelease community supervision pursuant
29 to Title 2.05 (commencing with Section 3450) of Part 3 of the
30 Penal Code, and any other offenders under county supervision
31 whose supervision would have been the responsibility of the state
32 if the 2011 Realignment Legislation addressing public safety had
33 not been enacted.

34 30031. (a) (1) The Realignment Reinvestment Fund is hereby
35 established in the State Treasury. Moneys in the fund are
36 continuously appropriated and shall be used exclusively for the
37 purposes of this chapter.

38 (2) (A) Beginning in 2016, on or after July 1, and no later than
39 August 31 of each year, the Director of Finance shall, in

1 consultation with the Legislative Analyst, annually calculate both
2 of the following:

3 (i) The actual net savings to the state for the immediately
4 preceding fiscal year resulting from the 2011 Realignment
5 Legislation addressing public safety.

6 (ii) An estimate of the net savings to the state for the current
7 fiscal year resulting from the 2011 Realignment Legislation
8 addressing public safety.

9 (B) Provided there are savings, the calculations shall be made
10 for each fiscal year by subtracting the amount calculated pursuant
11 to subparagraph (D) from the amount calculated pursuant to
12 subparagraph (C) for each fiscal year.

13 (C) (i) For the calculation pursuant to clause (i) of subparagraph
14 (A), the sum of all expenditure reductions, less cost increases,
15 affecting the Department of Corrections and Rehabilitation in the
16 fiscal year for which the calculation is being made that are a result
17 of the 2011 Realignment Legislation addressing public safety. This
18 calculation shall reflect the net fiscal impact of the 2011
19 Realignment Legislation addressing public safety and shall exclude,
20 to the greatest extent possible, the fiscal impacts of all other
21 changes, including, but not limited to, those resulting from
22 legislation, voter-approved ballot measures, court orders, and other
23 policy changes implemented subsequent to the 2011 Realignment
24 Legislation addressing public safety.

25 (ii) For the calculation pursuant to clause (ii) of subparagraph
26 (A), the projected sum of all expenditure reductions, less cost
27 increases, affecting the Department of Corrections and
28 Rehabilitation in the fiscal year for which the calculation is being
29 made that are a result of the 2011 Realignment Legislation
30 addressing public safety. This calculation shall reflect the net fiscal
31 impact of the 2011 Realignment Legislation addressing public
32 safety and shall exclude, to the greatest extent possible, the fiscal
33 impacts of all other changes, including, but not limited to, those
34 resulting from legislation, voter-approved ballot measures, court
35 orders, and other policy changes implemented subsequent to the
36 2011 Realignment Legislation addressing public safety.

37 (D) (i) For the calculation pursuant to clause (i) of subparagraph
38 (A), the sum of the allocations made from the Community
39 Corrections Subaccount, the Community Corrections Growth
40 Special Account, the District Attorney and Public Defender

1 Subaccount, and the District Attorney and Public Defender Growth
2 Special Account in the fiscal year for which the calculation is being
3 made, less four hundred fifty-three million dollars (\$453,000,000).

4 (ii) For the calculation pursuant to clause (ii) of subparagraph
5 (A), the sum of the allocations projected to be made from the
6 Community Corrections Subaccount, the Community Corrections
7 Growth Special Account, the District Attorney and Public Defender
8 Subaccount, and the District Attorney and Public Defender Growth
9 Special Account in the fiscal year for which the calculation is being
10 made, less four hundred fifty-three million dollars (\$453,000,000).

11 (3) For the 2015–16 fiscal year, the Controller shall transfer one
12 billion five hundred forty-three million seven hundred eighty three
13 thousand dollars (\$1,543,783,000) from the General Fund to the
14 Realignment Reinvestment Fund for allocation pursuant to
15 paragraph (5).

16 (4) Beginning with the 2016–17 fiscal year, and each fiscal year
17 thereafter, the Controller shall transfer an amount equal to the
18 difference between the amount identified in subparagraph (A) and
19 the amount identified in subparagraph (B) from the General Fund
20 to the Realignment Reinvestment Fund for allocation pursuant to
21 paragraph (5).

22 (A) The estimate of net savings for the current fiscal year
23 calculated pursuant to clause (ii) of subparagraph (A) of paragraph
24 (2).

25 (B) An adjustment for the immediately preceding fiscal year
26 that is the result of subtracting the amount calculated pursuant to
27 clause (i) of subparagraph (A) of paragraph (2) for that fiscal year
28 from the amount estimated pursuant to clause (ii) of subparagraph
29 (A) of paragraph (2) for that fiscal year.

30 (5) The Controller shall annually allocate moneys in the
31 Realignment Reinvestment Fund, no later than September 1 of
32 each year, to each county and city and county, for deposit in the
33 county's or city and county's Realignment Reinvestment Services
34 Account proportionally, based on the average daily population of
35 realigned offenders under each county's supervision for the
36 preceding fiscal year. The Controller shall consult with the Board
37 of State and Community Corrections to determine the average
38 daily population for each county.

39 (b) There shall be established in each county or city and county
40 treasury a Realignment Reinvestment Services Account to receive

1 all amounts allocated to a county or city and county for purposes
2 of implementing this chapter.

3 (c) (1) Each county local Community Corrections Partnership
4 established pursuant to subdivision (b) of Section 1230 of the Penal
5 Code shall recommend a comprehensive, locally run supplemental
6 community-based corrections plan to the county board of
7 supervisors. The purpose of the plan shall be to improve the
8 outcomes of the 2011 Realignment Legislation addressing public
9 safety. The plan may include, but shall not be limited to, mental
10 health programs, substance abuse programs, transitional housing
11 programs, job placement programs, improved supervision
12 strategies, community-based punishment programs, increased law
13 enforcement staffing in cities and counties, county jail construction,
14 maintenance, and operation, assessment and criminal prosecution
15 of realigned offenders, and supervision or aftercare for offenders
16 sentenced pursuant to subdivision (h) of Section 1170 of the Penal
17 Code and offenders subject to postrelease community supervision
18 pursuant to Section 3451 of the Penal Code.

19 (A) The supplemental community-based corrections plan may
20 include, but shall not be limited to, all of the following components:

21 (i) An assessment of existing law enforcement, probation,
22 education, mental health, health, social services, drug and alcohol,
23 and other services that specifically target realigned offenders, and
24 their families.

25 (ii) An identification and prioritization of the neighborhoods
26 and other areas in the community that face a significant public
27 safety risk from realigned offenders and associated crimes,
28 including, but not limited to, gang activity, burglary, robbery,
29 vandalism, controlled substances sales, firearm-related violence,
30 and substance abuse.

31 (iii) A local action strategy that provides for a continuum of
32 responses to crime and demonstrates a collaborative and integrated
33 approach for implementing a system of swift, certain, and
34 graduated responses for realigned offenders.

35 (iv) A schedule of programs identified in clause (iii) that are
36 proposed to be funded pursuant to this subparagraph, including
37 the projected amount of funding for each program.

38 (v) An accounting of the number of new crimes or violations
39 committed by realigned offenders.

1 (vi) An evaluation of existing services and any gaps that may
2 exist in those services.

3 (B) Programs proposed to be funded shall satisfy all of the
4 following requirements:

5 (i) Be based on evidence-based programs and approaches that
6 have been demonstrated to be effective in reducing crime, or
7 programs that improve public safety through incapacitation,
8 prosecution, or treatment of realigned offenders.

9 (ii) Employ information sharing systems to ensure that county
10 and city actions are fully coordinated and designed to provide data
11 for measuring the success of programs and strategies.

12 (C) The plan shall also identify the specific objectives of the
13 programs proposed for funding and specified outcome measures
14 to determine the effectiveness of the programs and contain an
15 accounting for all program participants, including those who do
16 not complete the programs. Outcome measures of the programs
17 proposed to be funded shall include, but not be limited to, all of
18 the following when that data is available and relevant to the
19 program:

20 (i) The rate of arrests per 100,000 population.

21 (ii) The rate of successful completion of probation and
22 postrelease community supervision.

23 (iii) The rate of successful completion of restitution and
24 court-ordered community service responsibilities.

25 (iv) Arrest, incarceration, and probation violation rates of
26 realigned offenders and other program participants.

27 (v) Quantification of the annual per capita costs of the program.

28 (D) To assess the effectiveness of programs funded pursuant to
29 this paragraph using the program outcome criteria specified in
30 subparagraph (C), the following periodic reports shall be submitted:

31 (i) Each county or city and county shall report, beginning
32 October 15, 2016, and annually each October 15 thereafter, to the
33 county board of supervisors and the Board of State and Community
34 Corrections, in a format specified by the board, on the programs
35 funded pursuant to this chapter and program outcomes as specified
36 in subparagraph (C).

37 (ii) The Board of State and Community Corrections shall
38 compile the local reports and, by March 15, 2017, and by March
39 15 of each year thereafter, make a report to the Governor and the
40 Legislature on program expenditures within each county and city

1 and county funded pursuant to this section and on the outcomes
2 as specified in subparagraph (C). A report submitted pursuant to
3 this clause shall be submitted in compliance with Section 9795 of
4 the Government Code.

5 (2) The supplemental community-based corrections plan shall
6 be voted on by an executive committee of each county's
7 Community Corrections Partnership consisting of the chief
8 probation officer of the county as chair, a chief of police, the
9 sheriff, the District Attorney, the Public Defender, the presiding
10 judge of the superior court, or his or her designee, and one
11 department representative listed in either subparagraph (G), (H),
12 or (J) of paragraph (2) of subdivision (b) of Section 1230 of the
13 Penal Code, as designated by the county board of supervisors for
14 purposes related to the development and presentation of the plan.

15 (3) If a supplemental community-based corrections plan has
16 been previously approved by a county's or city and county's local
17 Community Corrections Partnership, the plan shall be reviewed
18 annually and modified as needed.

19 (4) The supplemental community-based corrections plan or
20 modified supplemental community-based corrections plan shall
21 be deemed accepted by the county board of supervisors unless the
22 board rejects the plan by a vote of four-fifths of the board, in which
23 case the plan shall go back to the Community Corrections
24 Partnership for further consideration.

25 (5) The supplemental community-based corrections plan or
26 modified supplemental community-based corrections plan shall
27 be submitted to the Board of State and Community Corrections
28 no later than October 15 of each year.

29 (d) The Controller shall allocate funds to local jurisdictions for
30 public safety in accordance with this section as described in
31 subdivision (a).

32 (e) Funds allocated pursuant to subdivision (c) shall be expended
33 or encumbered in accordance with this chapter no later than June
34 30 of the following fiscal year. A local agency that has not met
35 the requirement of this subdivision shall remit the unspent moneys
36 in the Realignment Reinvestment Services Account to the
37 Controller for deposit in the Realignment Reinvestment Fund.

38 (f) Beginning in 2016, and no later than May 1 of each year,
39 the Director of Finance shall, in consultation with the Legislative
40 Analyst, develop an estimate of the cost avoidances expected to

1 be realized by the Department of Corrections and Rehabilitation
2 in the current fiscal year that are a result of the 2011 Realignment
3 Legislation addressing public safety and report those estimates to
4 the chairpersons of the committees in each house of the Legislature
5 that consider appropriations and to the Chairperson of the Joint
6 Legislative Budget Committee. A report submitted pursuant to
7 this subdivision shall be submitted in compliance with Section
8 9795 of the Government Code. The Legislature may consider each
9 year whether to appropriate funds in augmentation of the moneys
10 otherwise allocated pursuant to this chapter in an amount up to
11 and including the amount of cost avoidances reported pursuant to
12 this subdivision.

13 30032. (a) Moneys allocated from a Realignment Reinvestment
14 Services Account to a recipient entity shall be expended exclusively
15 for services included in the county's or city and county's
16 supplemental community-based corrections plan. These moneys
17 shall supplement existing services, and shall not be used to supplant
18 any existing funding for law enforcement services or programs or
19 activities included in the supplemental community-based
20 corrections plan provided by that entity.

21 (b) In no event shall any moneys allocated from the county's
22 or city and county's Realignment Reinvestment Services Account
23 be expended by a recipient entity to fund any of the following:

24 (1) Administrative overhead costs in excess of 1 percent of a
25 recipient entity's Realignment Reinvestment Services Account
26 allocation for that fiscal year.

27 (2) The costs of any capital project or construction project that
28 does not directly support programs or activities included in the
29 supplemental community-based corrections plan.

30 (c) For purposes of this section, both of the following shall
31 apply:

32 (1) A "recipient entity" is that entity that actually incurs the
33 expenditures of Realignment Reinvestment Services Account funds
34 allocated pursuant to subdivision (c) of Section 30301.

35 (2) Administrative overhead costs shall only be charged by the
36 recipient entity, as defined in paragraph (1), up to 1 percent of its
37 Realignment Reinvestment Services Account allocation.

38 30033. The moneys in the Realignment Reinvestment Services
39 Account established pursuant to subdivision (b) of Section 30031
40 in each county or city and county shall be expended exclusively

1 as required by this chapter. Moneys allocated from the account
2 shall not be transferred to, or commingled with, the moneys in any
3 other fund in the county or city and county treasury, except that
4 moneys may be transferred from the account to the county's or
5 city and county's general fund to the extent necessary to facilitate
6 the appropriation and expenditure of those transferred moneys in
7 the manner required by this chapter.

8 SEC. 4. If the Commission on State Mandates determines that
9 this act contains costs mandated by the state, reimbursement to
10 local agencies and school districts for those costs shall be made
11 pursuant to Part 7 (commencing with Section 17500) of Division
12 4 of Title 2 of the Government Code.